

CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall
Sacramento, California

Teleconference

320 West 4th Street - Suite 620
Los Angeles, California

Public Session Location

801 Capitol Mall, Room 150
Sacramento, California

Closed Session Location

801 Capitol Mall, Room 141
Sacramento, California

SUMMARY MINUTES - JANUARY 25, 2005

¹ The Minutes for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

MID-MONTH BOARD MEETING MINUTES²

JANUARY 25, 2005

1. ROLL CALL

Members Present:

William Elkins, President (via teleconference from Los Angeles)
Maeley Tom, Vice President
Ron Alvarado, Member
Anne Sheehan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Floyd D. Shimomura

The Executive Officer released and discussed the final Personnel Audit Report of the Secretary of State's Office, which was prepared by the Staff of the State Personnel Board.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

McKay v. Ca State Personnel Bd., et al. - In a 4 page written decision, the Court denied petition for writ of mandate filed by a whistleblower dissatisfied with the Board's Notice of Findings, finding that Board's Notice of Findings is supported by substantial evidence.

Soundarajan v. State Personnel Bd/ Dept. of Corrections - Employee was dismissed for falsifying his employment application based on a failure to disclose that a notice of proposed discharge from a federal agency was pending when he left that employment. CDC challenged Board's decision. The Court upheld Board's findings that employee did not mislead CDC on the employment application but that, during the interview he should not have answered "no" to the question of whether an adverse action had been taken against him because "a reasonable person could conclude" that the notice of proposed discharge was an adverse action. The court also noted that there was new evidence, however, that the disciplinary action had settled, and remanded case to Board for further findings and reopening of the evidentiary record.

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Other

SPB Chief Counsel has been invited to participate in the February 1st meeting of the Chief Counsel's meeting of the Labor and Workforce Development Agency

SPB's Council of Counsels will meet on January 31, 2005.

4. NEW BUSINESS

5. REPORT ON LEGISLATION - Sherry Hicks

6. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY THE ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code sections 11126 (d), and 18653 (2).]

7. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration, California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association, California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court Case No. S125502.

International Union of Operating Engineers v. State Personnel Board, Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA, Sacramento Superior Court No. 04CS00049.

8. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the Legislature. [Government Code section 18653.]

9. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor. [Government Code section 18653.]

10. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF FEBRUARY 8-9, 2005, IN LOS ANGELES, CALIFORNIA

BOARD ACTIONS

11. ACTION ON SUBMITTED ITEMS

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

(See Minutes - Page 18)

12. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. On January 25, 2005, the Board adopted as indicated below the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

Vote: Elkins, Tom, Alvarado - Aye

DANNY BOYD, CASE NO. 03-1537PA

Appeal from dismissal

Youth Correctional Officer

Department of Youth Authority

No Action

DOREATHA FLEMING, CASE NO. 03-2274A

Appeal from dismissal
Motor Vehicle Field Representative
Department of Motor Vehicles

No Action

JOHN FLORES, CASE NO. 03-2588EA

Appeal of retaliation
Hospital Peace Officer I
Department of Mental Health

No Action

HAJI JAMEEL, CASE NO. 04-0330A

Appeal from dismissal
Supervising Transportation Engineer
California Public Utilities Commission

No Action

EDWARD LIMON, CASE NO. 04-0233A

Appeal from dismissal
Parole Agent I
Department of the Youth Authority

No Action

VIRGINIA PARKER, CASE NO. 03-0325A

Appeal from demotion
Correctional Lieutenant
Ironwood State Prison - Blythe
Department of Corrections

No Action

PEARLIE BLEDSOE-TOWNES, CASE NO. 03-2966A

Appeal from denial of request for reasonable accommodation
Correctional Sergeant
Central California Women's Facility - Chowchilla
Department of Corrections

No Action

B. CASES PENDING

Oral Arguments

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

None

C. CHIEF COUNSEL RESOLUTIONS

None

Court Remands

These cases have been remanded to the Board by the court for further Board action.

None

Stipulations

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

None

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

Proposed Decisions

These are ALJ proposed decisions submitted to the Board for the first time.

JACOB ARIS, CASE NO. 04-1378E

AND

NICHOLAS RUTHART, CASE NO. 04-1409E

Appeal of discrimination

Employment Program Representatives

Employment Development Department

ACTION: The Board rejected the ALJ's proposed decision and remanded the cases to the Chief ALJ for an evidentiary hearing.

ROBERT BARR, CASE NO. 04-0568E

Appeal of discrimination complaint
Program Representative I
Department of Consumer Affairs

ACTION: The Board adopted the ALJ's proposed decision. The appeal taken by appellant from the denial of his complaint of disability discrimination is denied.

MICHAEL BEREST, CASE NO. 04-2533

Appeal from termination
Court Executive Officer
Superior Court of Mariposa County

ACTION: The Board adopted the ALJ's proposed decision. The appeal from termination is dismissed.

FRANCES LOPEZ AKA FRANCES GRIEGO, CASE NO. 04-0779

Appeal from dismissal
Motor Vehicle Field Representative
Department of Motor Vehicles

ACTION: The Board adopted the ALJ's proposed decision revoking the dismissal.

SAMUEL MARTIN, CASE NO. 04-1808

Appeal from ten-percent reduction in salary for 12-months
Vocational Instructor (Janitorial Services)
Folsom State Prison - Represa
Department of Corrections

ACTION: The Board adopted the ALJ's proposed decision sustaining the ten-percent reduction in salary for 12-months.

DAWN M. MILLS, CASE NO. 04-1390

Appeal from dismissal
Food Service Technician I
Department of Developmental Services

ACTION: The Board adopted the ALJ's proposed decision sustaining the dismissal.

MICHAEL VERDUCCI, SPB Case 04-2376

Appeal from five-percent reduction in salary for six months
Vocational Instructor
California State Prison - Avenal
Department of Corrections

ACTION: The Board adopted the ALJ's proposed decision. The appeal of the five-percent reduction in salary for six months is dismissed.

ANTONIO YANAS, CASE NO. 04-1510

Appeal from 20-work-days suspension
Employment Program Representative
Employment Development Department

ACTION: The Board adopted the ALJ's proposed decision sustaining the 20-work-day suspension.

Proposed Decisions Taken Under Submission At Prior Meeting

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

Proposed Decisions After Board Remand

None

Proposed Decisions After SPB Arbitration

BRIAN LEYVA, CASE NO. 04-2462

Appeal from five-work-days suspension
CHP Officer
California Department of Highway Patrol

ACTION: The Board adopted the ALJ's proposed decision sustaining the five-work-days suspension.

E. PETITIONS FOR REHEARING

ALJ Proposed Decisions Adopted By The Board

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

MARK LOUGHLIN, CASE NO. 04-0646

Appeal from dismissal
Park Maintenance Worker I
Department of Parks and Recreation
Petition for rehearing filed by appellant to be granted or denied.

ACTION: The Board denied the Petition for rehearing filed by appellant.

RICARDO RODRIGUEZ, CASE NO. 04-0096EP

Appeal of discrimination
Heavy Equipment Mechanic
California Men's Colony - San Luis Obispo
Department of Corrections

Petition for rehearing filed by appellant to be granted or denied.

ACTION: The Board denied the Petition for Rehearing filed by appellant.

Whistleblower Notice of Findings

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

ARTHUR GONZALES, CASE NO. 04-1306P

Appeal of Whistleblower Notice of Findings

Field Examiner III

Agricultural Labor Relations Board

Petition for rehearing filed by appellant to be granted or denied.

ACTION: The Board denied the Petition for rehearing of the Whistleblower Notice of Findings filed by appellant.

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

DAVID BARTON, SPB CASE NO. 04-1434

Appeal from dismissal

Associate Hazardous Materials Specialist

Wasco State Prison - Wasco

Department of Corrections

Proposed decision rejected January 11, 2005

No Action

JENNIFER CADY, CASE NO. 03-3390EA

Appeal from denial of request for reasonable accommodation

Deputy Attorney General IV

Department of Justice

Proposed decision rejected November 3, 2004

No Action

SHARON COHEN, CASE NO. 03-3389EA

Appeal from denial of request for reasonable accommodation

Deputy Attorney General IV

Department of Justice

Proposed decision rejected November 3, 2004

No Action

JOHN A. CRUZ, CASE NO. 04-1376A

Appeal from 60-calendar-days suspension
Automotive Equipment Operator I
California Department of Veterans Affairs
Proposed decision rejected February 8, 2005
No Action

NESSLIN CRUZ, CASE NO. 03-1854A

Appeal from ten-work-days suspension
Employment Program Representative (Permanent/Intermittent)
Employment Development Department
Proposed decision rejected September 14, 2004
No Action

DON DOWLING, CASE NO. 04-1482A

AND

ROGER HANSON, CASE NO. 04-1523A

Appeals from dismissal
Police Officers I
Department of Developmental Services
Proposed decision rejected November 3, 2004
No Action

ERNEST J. DURAN, CASE NO. 04-0853

Appeal from demotion
Special Agent in Charge
Department of Justice
Proposed decision rejected January 11, 2004
No Action

JOE W. JORDAN, CASE NO. 04-0393A

Appeal from dismissal
Youth Correctional Counselor
Department of Youth Authority
Proposed decision rejected November 3, 2004
No Action

CHAD LOOK, CASE NO. 04-1789

Appeal from 60-work-days suspension
Correctional Officer
Wasco State Prison - Wasco
Department of Corrections
Proposed decision rejected January 11, 2005
No Action

MICHAEL MCGUIRE, CASE NO. 04-0490

Appeal from demotion
Program Director
Department of Developmental Services
Proposed decision rejected December 20, 2004
No Action

KIM RITTENHOUSE, CASE NOS. 03-3541A & 03-3542E

Appeal from denial of reasonable accommodation and from constructive medical termination
Office Technician (General)
Department of Fish and Game
Proposed decision rejected May 18, 2004
No Action

SAMUEL SWEENEY, CASE NO. 04-0794A

Appeal from 20-calendar-days suspension
Correctional Officer
California Institution for Men - Chico
Department of Corrections
Proposed decision rejected October 5, 2004
No Action

ANTHONY VEGAS, Case No. 03-2204A

Appeal from dismissal
Parole Agent I (Adult Parole)
Department of Corrections - Stockton
Proposed decision rejected November 3, 2004
No Action

13. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION

(See Agenda - Pages 19 & 20)

14. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

On January 25, 2005, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

Vote: Elkins, Tom, Alvarado - Aye

LISA BONNER-DAVIS, CASE NO. 04-0558

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; negative law enforcement contacts, furnished inaccurate information and omitted pertinent information during the selection process.

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

FRANCISCO MACIEL; CASE NO. 04-1753

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; furnishing inaccurate information and omitting information during the selection process; arrest/conviction record, and negative law enforcement contacts

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

REX PROWSE, CASE NO. 04-0860

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; furnished inaccurate information, omitted pertinent information, failure to comply with legal obligations.

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

JOSEPH TORRES, CASE NO. 04-0728

Classification: Youth Correctional Officer

Department: Youth Authority

Issue: Suitability; omitted pertinent information, negative driving record, negative military record, and failure to comply with legal obligations.

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

LUCAS WILLEY, 04-0730

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; negative law enforcement contacts, negative employment record.

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

None

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

None

**D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

None

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

On January 25, 2005, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

Vote: Elkins, Tom, Alvarado - Aye

OCHOA, ALLEN, CASE NO. 04-0559

Classification: Correctional Sergeant

Department: Corrections

Issue: The charging party requests that a Facility Captain be charged under various subsections of Government Code section 19572.

ACTION: The Board adopted the Staff's proposed decision denying the charging party's request.

MONIQUE SIDAROSS, CASE NOS. 04-1779 & 04-2118

Classification: Transportation Engineer (Civil)

Department: Transportation (Caltrans)

Issue: The charging party requests to file charges against two SPB ALJs under various subsections of Government Code section 19572.

ACTION: The Board adopted the Staff's proposed decision denying the charging party's request.

PETITIONS FOR REHEARING CASES

None

F. PSYCHOLOGICAL SCREENING CASES

Cases reviewed by Appeals Division staff, but no hearing was held. It is anticipated that the Board will act on these proposals without a hearing.

None

15. NON-HEARING CALENDAR

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is

scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

16. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

17. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

STEPHEN P. TEALE DATA CENTER AND THE HEALTH AND HUMAN SERVICES DATA CENTER CONSOLIDATION

The Stephen P. Teale Data Center and the Health and Human Services Data Center propose to allocate the positions listed below to the CEA category for a period of twenty-four months. The Consolidation Management Office has the overall responsibility for development and implementation of broad and sensitive statewide policies, standards, procedures and guidelines governing overall data center consolidation. The Consolidation Management Office will recommend and implement high-level internal policy for the consolidated data center with respect to change management policies and procedures aimed at maintaining or improving service levels and minimizing disruption to data center operations, other projects and client agencies line of business functions. In addition the Consolidation Management Office will participate extensively in external policy development affecting statewide technology realignment and elements of statewide information technology management, including departmental and statewide information technology architectures, security, fiscal, human resources, program consolidations, change management and service level policies in order to provide adaptable, reliable, secure information technology services and reduce costs of operations.

PROGRAM MANAGER, CONSOLIDATION MANAGEMENT OFFICE

The Project Manager, Consolidation Management Office is the primary project manager for the consolidation and realignment initiative. The position will identify best practices and project management methodologies, define roles and responsibilities, and manage all consultant contracts in support of the Consolidation Management Office's statewide activities.

TECHNICAL MANAGER, CONSOLIDATION MANAGEMENT OFFICE

The Technical Manager, Consolidation Management Office is the primary technical manager for the consolidation and realignment initiative including oversight of the technical development and implementation of a Consolidation strategy and serving as a liaison between the Data Centers, Agency, Customers, vendors and stakeholders.

PROGRAM MANAGER, LEGAL, LEGISLATION AND CONTROL AGENCY STRATEGIES

The Program Manager, Legal, Legislation and Control Agency Strategies is responsible for the formulation, and implementation of all legislation necessary to consolidate the Teale Data Center and the Health and Human Services Agency Data Center, its technology operations, and transfer of oversight or control responsibilities for state technology initiatives.

PROGRAM MANAGER, ORGANIZATIONAL AND TRANSITION MANAGEMENT

The Program Manager, Organizational and Transition Management will be responsible for managing the complex staffing, labor, funding, procurement and contracting, and statewide facilities issues associated with data center consolidation and statewide information technology realignment.

PROGRAM MANAGER, ENTERPRISE SERVICES MANAGEMENT PROGRAM

The Program Manager, Enterprise Services Management Program will be responsible for development of statewide policies, standards, procedures and guidelines governing the information solutions that focus on leveraging the economies of scale in the utilization of resources, eliminating redundancies and reducing support cost through standardization for statewide applications and services.

ACTION: NOTED

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

ASSISTANT SECRETARY, CALIFORNIA HEALTH CARE QUALITY AND COST CONTAINMENT

The Department of Social Services' request on behalf of the California Health and Human Services Agency to allocate the above position to the CEA category has been approved effective December 21, 2004, for a period of twenty-four months.

CHIEF, OFFICE OF AUDIT SERVICES

The Department of General Services' request to allocate the above position to the CEA category has been approved effective December 20, 2004.

DEPUTY DIRECTOR, POLICY AND PROGRAM OPERATIONS

The Employment Development Department's request on behalf of the Employment Training Panel to allocate the above position to the CEA category has been disapproved effective December 21, 2004.

ACTION: NOTED

18. WRITTEN STAFF REPORT FOR BOARD INFORMATION

19. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

A D J O U R N M E N T

SUBMITTED

TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

HEARING - PSC #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on January 25, 2005.

VOTE: Elkins, Alvarado, Tom, Sheehan - Aye

FLOYD D. SHIMOMURA
Executive Officer
California State Personnel Board